

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In Re:	§	Case No. 24-11967 (JKS)
	§	
BIG LOTS, INC., <i>et al.</i> , <sup>1</sup>	§	(Chapter 11)
	§	(Jointly administered)
	§	
Debtor	§	<b>Related Docket No. 511</b>

**COLLIN CREEK ASSOCIATES, LLC’S OBJECTION TO NOTICE OF (I)  
POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES AND (II) CURE AMOUNTS (ECF NO. 511)**

COMES NOW, Collin Creek Associates, LLC (“**Collin Creek**”), a creditor and landlord of the Debtor, and files this Objection to *Notice of Potential Assumption and Assignment of Executory Contracts and Unexpired Leases and Cure Amount* (“**Objection**”),<sup>2</sup> and, in support thereof, would respectfully show as follows:

**BACKGROUND**

1. On or about April 7, 2011, Collin Creek, as landlord, entered into a certain lease agreement with PNS Stores, Inc., doing business as Big Lots, as tenant (“**Tenant**”) (collectively referred to herein as the “**Lease**”), for the property located at 600 W. 15<sup>th</sup> Street, Plano, Texas 75075, and being approximately 108,118 square feet of commercial real estate space for an initial term of 70 months ending on January 31, 2017. Tenant thereafter exercised its option to extend the term of the Lease commencing February 1, 2022 and expiring on January 31, 2027 on a triple net

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<sup>1</sup> The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective employer identification numbers, are as follows: Great Basin, LLC (6158); Big Lots, Inc. (9097); Big Lots Management, LLC (7948); Consolidated Property Holdings, LLC (0984); Broyhill LLC (7868); Big Lots Stores - PNS, LLC (5262); Big Lots Stores, LLC (6811); BLBO Tenant, LLC (0552); Big Lots Stores - CSR, LLC (6182); CSC Distribution LLC (8785); Closeout Distribution, LLC (0309); Durant DC, LLC (2033); AVDC, LLC (3400); GAFDC LLC (8673); PAFDC LLC (2377); WAFDC, LLC (6163); INFDC, LLC (2820); Big Lots eCommerce LLC (9612); and Big Lots F&S, LLC (3277). The address of the debtors’ corporate headquarters is 4900 E. Dublin- Granville Road, Columbus, OH 43081.

<sup>2</sup> ECF 511.

basis for an annual Fixed Minimum Rent,<sup>3</sup> together with additional rent of Tenant's pro rata share of common area maintenance expenses, real property taxes and insurance. All Fixed Minimum Rent and additional rent (collectively, "**Rent**") is due in advance on the first day of each month.

2. On September 9, 2024, Big Lots, Inc. and each of its subsidiaries, including Tenant, ("**Big Lots**") filed a voluntary petition for relief under Chapter 11 of the United States Code. The cases are jointly administered under Case No. 24-11967.

3. On October 16, 2024, Big Lots filed a *Notice of Potential Assumption and Assignment of Executory Contracts and Unexpired Leases and Cure Amounts* ("**Notice**").<sup>4</sup>

4. The Notice lists the Lease as an unexpired lease to be potentially assumed and assigned to the successful bidder under this Court's *Order Approving Bidding Procedures for Sale of Debtors' Assets and (II) Approving the Stalking Horse Bid Protections* ("**Bidding Procedures**").<sup>5</sup>

### **OBJECTION**

5. In the Notice, Big Lots has scheduled a cure amount for the Lease of \$15,151.00 ("**Cure Amount**").

6. Collin Creek objects to the Cure Amount as listed because it is currently owed \$32,402.28 as is evidenced by a true and correct copy of the most recent aging report attached as **Exhibit B**. This includes payment obligations for September 2024's base rent, common area maintenance, and prior year's taxes and insurance.

7. Accordingly, the Cure Amount should be revised to reflect the current amounts owed to Collin Creek.

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<sup>3</sup> As Defined in the lease attached as **Exhibit A**.

<sup>4</sup> ECF 511.

<sup>5</sup> ECF 612.

8. Collin Creek hereby adopts any and all additional arguments made by other landlords in this matter.

9. Prior to the date of any assumption or assignment, and regardless of when those amounts accrue, pursuant to Big Lot's contractual obligations under the Lease, other amounts such as common area maintenance, taxes, insurance, and potentially other amounts, including periodic adjustment of charges, may come due to Collin Creek. Any cure amount should include any unpaid amounts which accrue prior to the date of any assumption and assignment, or the Debtors or any assignee must be responsible for payments of these amounts.

10. Collin Creek is also entitled to recover its attorneys' fees as part of its "pecuniary loss" under Bankruptcy Code section 365(b)(1)(B) due upon assumption and assignment of the Lease. *See In re Crown Books Corporation*, 269 B.R. 12, 18 (Bankr. D. Del. 2001) (lessor may recover attorney fees as part of cure amount for debtor's assumption of lease only if lease specifically requires their payment). Collin Creek estimates that its attorneys' fees total approximately \$8,000 as of the filing of this objection. Attorneys' fees continue to accrue.

11. Any order that is entered establishing a cure amount with respect to the Lease must require the Debtors to (1) pay Collin Creek their actual cure amount, (2) comply with all obligations under the Lease pursuant to 11 U.S.C. § 365(b)(3) pending the actual assumption of the Lease, (3) cure any additional defaults that may occur under the Lease between the Date of this Objection and the effective date of any assumption by the Debtors, and (4) ensure that the Debtors or any assignee will be expressly responsible and liable for the payment of any charges that come due under the Lease post-assumption and assignment, but that may relate to a pre-assumption and assignment period. In addition, any purchaser must execute a document in a form acceptable by Collin Creek in which it ratifies the Lease and assumes the obligations.

**RESERVATION OF RIGHTS**

12. Collin Creek reserves the right to amend and/or supplement this Objection to assert any additional objections in connection with any proposed showing of adequate assurance of future performance for any purchase if assumed or assigned.

WHEREFORE, PREMISES CONSIDERED, Collin Creek respectfully prays this Objection be sustained, the Cure Amount be amended to \$32,402.28, together with any amounts unpaid under the Lease hereafter accrued, and for all other relief to which it may be entitled.

Date: November 5, 2024  
Wilmington, Delaware

**SULLIVAN HAZELTINE ALLINSON LLC**

/s/ William A. Hazeltine

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